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JUL 08 2005

In re Application of:
Martin Cotton
Serial No.: 10/046,323
Filed: January 14, 2002
Attorney Docket No.: 2654-015 (8245.035)

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed on October 29, 2003 to withdraw the holding of abandonment of the above identified application under 37 C.F.R. § 1.181.

The petition is **GRANTED**.

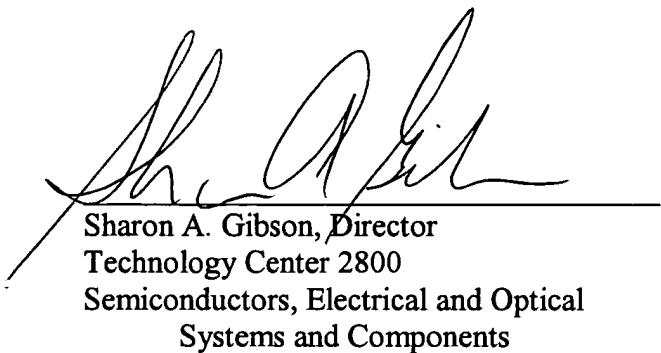
The application was held abandoned for failure to timely file a response to the Office action mailed on March 17, 2003. A Notice of Abandonment was mailed on October 8, 2003.

Petitioner asserts that on September 17, 2003, a response including an amendment, a three-month extension of time, and the required fee was filed. To support this assertion, petitioner has submitted a copy of the response and a copy of a return postcard receipt, which acknowledges receipt in the PTO of the amendment, petition for extension of time, and fee transmittal on September 17, 2003.

M.P.E.P. § 503 states, “A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.” Accordingly, it is concluded that the response was timely received in the PTO. Furthermore, a review of the application file reveals that the original response is now of record.

For the above stated reason, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is restored to pending status and is being forwarded to the examiner of record for consideration of the response and prompt appropriate action.

Inquiries regarding this decision should be directed to Clayton E. LaBalle, Special Program Examiner, at (571) 272-1594.



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